



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT



ARNOLD
SCHWARZENEGGER
GOVERNOR

For Meeting Date: December 11, 2008

Agenda Item No. 10: Approval of Adjusted Financial Assurance Cost Estimate for the Wheatland Clay Pit (CA Mine ID #91-58-0007), Gladding McBean (Operator), Richard Hutchens (Agent), Yuba County.

INTRODUCTION: The State Mining and Geology Board (SMGB) is the lead agency for Yuba County, pursuant to the Surface Mining and Reclamation Act of 1975 (SMARA, Public Resources Code (PRC) Section 2710, et seq.). SMARA requires that each surface mining operation maintain a financial assurance in an amount adequate to reclaim, in accordance with the requirements of an approved reclamation plan, the land disturbed by the mining operation at the conclusion of mining activities. SMARA lead agencies are required to annually review the financial assurance amounts for each surface mining operation, and adjust the amount, as necessary, to account for new land disturbed, inflation, or land reclaimed. In any event, the lead agency must ensure that the approved amount is adequate to reclaim the mine site in accordance with the approved reclamation plan (PRC Sections 2770 and 2773.1, and California Code of Regulations (CCR) Section 3804).

STATUTORY AND REGULATORY AUTHORITY: Financial assurance cost estimate adjustment requirements are discussed under SMARA, and within the SMGB's regulations and guidelines. Lead agencies are required to assure that financial assurances for reclamation are sufficient pursuant to Division 2, Chapter 9, Article 5 of PRC Section 2770(d) which states:

"The lead agency's review of reclamation plans submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, but, in any event, the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances determined to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. The



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operator has 60 days to revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval.”

In addition, PRC Section 2773.1(a) states:

“...Lead agencies shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:

(3) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.”

Furthermore, the SMGB's regulations pursuant to Article 11 of the CCR Section 3804, Calculation of Financial Assurance Amount, states:

“(a) The Financial Assurance Amount shall be calculated as prescribed in Public Resources Code Section 2773.1 and based on:

- (1) an analysis of the physical activities and materials necessary to implement the approved reclamation plan;*
- (2) the lead agency's unit costs, or costs for third party contracting, for each of these activities, if applicable;*
- (3) the number of units of each of these activities, if applicable;*
- (4) a contingency amount not to exceed 10% of the reclamation costs.*

(b) The calculated amount should not include the cost of completing mining of the site.

(c) In order for the lead agency or the Department of Conservation to determine what annual adjustments, if any, are appropriate to the Financial Assurance Amount, the operator shall annually submit to the lead agency a revision of the written calculation required under Section 3804(a).”

BACKGROUND: The Wheatland Clay Pit is an inactive clay pit located about one mile north of the city of Wheatland, immediately east of Highway 65. The site encompasses about 114 acres, and is relatively flat, with an overall relief of five to seven feet. Agricultural land borders the site. The sinuous Grasshopper Slough parallels the southern portion of the site.



The material previously extracted is a former bench deposit of silty clay (Wyman Silt Loam) ranging up to nine feet in depth and characterized by good plasticity and moderately high dry and fired strength. Un-mined areas in the southeast corner of the site that are underlain by this silty clay deposit are evident in aerial photographs. Sandy silty loam that is left in place underlies the Wyman Silt Loam. The clayey soils were extracted and transported to the operator's facility in Lincoln, California where it is used for various clay products.

An inspection of the surfacing mining operation was performed on August 22, 2008. Material extraction related-activities ceased on July 30, 2003. As of this date, no violations or corrective measures were noted at time of inspection. At time of inspection, no disturbed acreage was observed. The financial assurance was adjusted to reflect current site conditions, and anticipated disturbance over the next calendar year. The financial assurance is currently established in the form of a Surety Bond for the amount of \$5,260. Based on observations made during the 2008 mine inspection, the adjusted financial assurance cost estimate (FACE) was adjusted to \$1,072.50.

FINANCIAL ASSURANCE COST ESTIMATE (FACE) ADJUSTMENT:

I.	Primary Reclamation Activities	\$0
II.	Revegetation	\$0
III.	Plant Structures and Equipment Removal	\$0
IV.	Miscellaneous Costs	\$0
V.	Monitoring	\$750.00
	Total Direct Cost	\$750.00
I.	Supervision/Overhead/Contingencies	
a.	Supervision (10%)	\$75.00
b.	Profit/Overhead (10%)	\$75.00
c.	Contingencies (10%)	\$75.00
d.	Mobilization	\$0
	Total Indirect Cost	\$225.00
	Lead Agency administrative cost (15%)	\$97.50
	Total Estimated Cost for Reclamation	\$1,072.50



CONSIDERATION BEFORE THE SMGB: The SMGB may consider the following actions:

1. Approve as adequate the adjusted financial assurance cost estimate, without additions;

[or]
2. Modify the adjusted financial assurance cost estimate, and then accept it as adequate;

[or]
3. Reject the adjusted financial assurance cost estimate as inadequate and order it to be redone.

EXECUTIVE OFFICER'S RECOMMENDATION: The Executive Officer recommends that the SMGB approve the adjusted FACE. The adjusted financial assurance cost estimate has been reviewed for its consistency and completeness in meeting the minimum requirements of SMARA, and SMGB's regulations and guidelines. Based on the subject annual inspection conducted in 2008, the recently revised FACE amount deemed to be adequate. The OMR has reviewed the adjusted FACE, and also considers it adequate to reclaim the site in accordance with the approved reclamation plan.

SUGGESTED MOTION LANGUAGE:

To approve the Adjusted Financial Assurance Cost Estimate:

Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board approve the adjusted financial assurance cost estimate of \$1,072.50 for the Wheatland Clay Pit, CA Mine ID #91-58-0007, located in the Yuba County, as being adequate to reclaim the site in accordance with the approved reclamation plan, and meeting the minimum requirements of SMARA and SMGB's regulations.

Respectfully submitted:

Stephen M. Testa
Executive Officer